

RAVALLI COUNTY ORDINANCE NO. 17

AN ORDINANCE AUTHORIZING AND ESTABLISHING THE PROCEDURE FOR IMPOSITION OF IMPACT FEES TO FUND CAPITAL IMPROVEMENTS FOR PUBLIC FACILITIES IN RAVALLI COUNTY, MONTANA.

SECTION 1. Statement of Purpose.

- A. Montana State legislation regulating impact fees to fund capital improvements (§§7-6-1601 through 7-6-1604, MCA) became effective April 19, 2005, and sets forth the procedures and requirements for the imposition of impact fees by local governments. An impact fee represents a fee imposed upon new development for service payable by all users creating additional demand on a public facility.
- B. The Board of Ravalli County Commissioners commissioned and received a completed Ravalli County Impact Fee Feasibility Study (TischlerBise, February 9, 2006) which examined the potential effects upon public facilities generated by new residential growth and continued commercial and industrial development in Ravalli County. This study determined that "...[Ravalli] County has insufficient revenue to maintain and provide existing levels of service, particularly capital facilities" and recommended that new development should contribute its fair and proportionate share towards the cost of additional demand upon public facilities.
- C. It is the finding of the Board of Ravalli County Commissioners that it is in the best interests of Ravalli County that certain impact fees be considered and imposed upon new development to fund capital improvements and that a procedure be established for this purpose that is compliant with state law.

BE IT THEREFORE ORDAINED BY THE BOARD OF RAVALLI COUNTY COMMISSIONERS, AS FOLLOWS:

SECTION 2. Establishment of a Standing Impact Fee Committee. On July 30, 2007, Ravalli County established the Ravalli County Impact Fee Advisory Committee ("Advisory Committee") via Resolution No. 2178. Ravalli County shall maintain this Advisory Committee. This Advisory Committee shall include at least one representative of the development community and one certified public accountant. The Advisory Committee shall review and monitor the process of calculating, assessing, and spending impact fees. The Advisory Committee shall be provided with adequate financial reports on a quarterly basis, shall meet at least quarterly, and shall provide the Board of Ravalli County Commissioners with a report of their findings and recommendations within 45 days after each meeting. Ravalli County shall not consider or adopt any impact fees that have not been first considered by the Advisory Committee. The Advisory Committee shall serve in an advisory capacity to the Board of Ravalli County Commissioners.

SECTION 3. Calculation and Imposition of Impact Fees. Any impact fees to fund capital improvements for public facilities may not be approved and adopted by Ravalli County unless those fees have been calculated and imposed in accordance with §7-6-

1601 through -1604, MCA, or as such statutes may later be amended. Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as set forth by state law. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed. The data sources and methodology supporting adoption and calculation of an impact fee shall be available to the public upon request.

SECTION 4. Impact Fee Application Process.

A department, district, or designated representative may submit an impact fee proposal for a public facility, which addresses the requirements of §7-6-1602, MCA, to the Advisory Committee for its review and recommendation. The impact fee proposal should be submitted in writing, including all studies and materials referenced in the proposal, to the Ravalli County Planning Department for submission to the Advisory Committee.

The Advisory Committee shall conduct at least one (1) public meeting within forty-five (45) business days of receipt of an impact fee proposal. Public comment will be heard and considered by the Advisory Committee, after which the Advisory Committee will submit a written recommendation regarding the proposal to the Board of Ravalli County Commissioners.

The Board of Ravalli County Commissioners shall conduct at least one (1) public hearing, with 14 days' public notice in accordance with §7-1-2121, MCA. The public hearing(s) shall be held within 45 business days of receipt of the written recommendation from the Advisory Committee, unless the parties agree to an extension or suspension of this time period. The public hearing(s) shall provide opportunity for submission of both oral and written testimony.

The Board of Ravalli County Commissioners may approve the proposal, approve the proposal with conditions, deny the proposal, or postpone its decision (but not beyond 45 business days after receipt of the Advisory Committee's written recommendation). If the proposal is approved or approved with conditions, a written resolution shall be adopted setting the amount of impact fees in a manner which complies with Montana law and this Ordinance, and setting an effective date for imposition of those fees.

SECTION 5. Collection of Impact Fees.

(A) Upon collection, all impact fees shall be deposited in a special proprietary fund, which shall be invested with all interest accruing to the fund.

(B) Ravalli County may impose impact fees as allowed by law, including impact fees on behalf of local districts. Any impact fee imposed may include an administrative fee as allowed under §7-6-1601, MCA.

(C) If the impact fees are not hereafter collected or spent in accordance with this ordinance and any applicable resolutions, or are not in compliance with §7-6-1602, MCA, any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due, in compliance with §7-6-1603 (1)(c).

(D) The Ravalli County Treasurer shall collect all impact fees imposed. All impact fees imposed must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

SECTION 6. Contribution in Lieu of Impact Fee Payments. Ravalli County, in its sole discretion, may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(A) The need for the dedication or construction is clearly documented pursuant to §7-6-1602, MCA; and

(B) The land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by Ravalli County; and

(C) The value of the proposed dedication or construction has been established by a licensed independent appraiser, which appraisal has been subject to peer review and the cost of such appraisal and review shall be paid by the developer; and

(D) In the event the value of the proposed dedication or construction exceeds the impact fee due from an individual development, a means to establish credits against future impact fee revenue has been addressed by written agreement between the district receiving the impact fee and the developer. This written agreement shall be subject to approval by Ravalli County prior to acceptance of the dedication. If no written agreement can be reached between the district and developer, or the written agreement is not approved by Ravalli County, Ravalli County may make alternative arrangements to credit the excess worth to the contributor if it decides to accept the dedication.

SECTION 7. Appeal Process. Notice of imposition of an impact fee will be sent by the designated county department by certified mail, return receipt requested, to the party upon whom an impact fee has been imposed. Any party upon whom an impact fee has been imposed has the right to appeal the imposition or amount of the impact fee if the person believes an error has been made. The appellant must perfect the appeal by submitting a written notice of the appeal ("Notice of Appeal") to the Planning Department within ten (10) business days following receipt of the notice of imposition of an impact fee, along with the full amount of the required impact fee, in cash or cash equivalent, as an Appeal Bond. The form of the Notice of Appeal shall be sufficient if it contains the name and address of the appellant, the location of the individual development and the related impact fees being appealed, and a statement identifying the error that has allegedly been made.

Upon receiving the Notice of Appeal and Appeal Bond, the appropriate Planning Department official shall, within five (5) business days, notify both the Advisory Committee and the Board of Ravalli County Commissioners. The Board of Ravalli County Commissioners will place the matter on its agenda for a public meeting not less than fifteen (15) or more than forty-five (45) business days following the filing of the Notice of Appeal and the Appeal Bond.

The Board of Ravalli County Commissioners shall hear evidence from the appellant, the Advisory Committee, County staff, and any other necessary parties and shall make the determination whether the impact fee imposed upon the appellant is compliant with state law, this County ordinance, and any applicable resolutions. In the event that the Board of Ravalli County Commissioners determine that the imposition of the impact fee is not compliant with either state law, this County ordinance, and any applicable resolutions, the Board of Ravalli County Commissioners may either grant a partial refund of such impact fees, if such fees are determined to be in excess, or shall return the Appeal Bond paid by the appellant if the Board of Ravalli County Commissioners determines that the impact fees should not have been imposed.

SECTION 8. Effective Date. This Ordinance shall be effective thirty (30) days from and after the date of its final passage and approval.

SECTION 9. Severability. If any part or portion of this Ordinance shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

READ AND ADOPTED at first reading this 17th day of November, 2008.

By Charlotte J. Arndt

By John E. Stokach

By Alan Thompson

By [Signature]

By [Signature]

ATTEST on the _____ day of _____, 2008:

By: _____
Ravalli County Clerk & Recorder

(SEAL)

APPROVED AND PASSED at second reading this 4th day of DECEMBER, 2008.

By Carlotta Brandstetter

By [Signature]

By Alan Thompson

By Frank Johnson

By _____

ATTEST on the _____ day of _____, 2008:

By: _____
Ravalli County Clerk & Recorder

(SEAL)